

REMARKS

This Amendment is being filed in response to the Office Action mailed on April 28, 2004. Claims 1-55 are pending in this application. Claims 30-52 have been withdrawn from consideration, while claims 1-29 and 53-55 stand rejected. The rejections are summarized in the table that follows. Applicants respectfully request reconsideration and allowance of the pending claims in the present application in view of the foregoing amendments and remarks below.

Claim No.	OA 3 102(b) Field	OA 5 103(a) Field + In re Japikse	OA 6 103(a) Field + In re Rose	Withdrawn
1	X			
2	X			
3	X			
4	X			
5	X			
6	X			
7	X			
8	X			
9	X			
10	X			
11	X			
12	X			
13	X			
14	X			
15	X			
16		X		
17	X			
18	X			
19	X			
20	X			
21	X			
22	X			
23			X	
24	X			
25	X			
26	X			
27	X			
28			X	
29	X			
30				X
31				X
32				X
33				X
34				X
35				X
36				X

Claim No.	OA 3 102(b) Field	OA 5 103(a) Field + In re Japikse	OA 6 103(a) Field + In re Rose	Withdrawn
37				X
38				X
39				X
40				X
41				X
42				X
43				X
44				X
45				X
46				X
47				X
48				X
49				X
50				X
51				X
52				X
53	X			
54	X			
55	X			

I. Field does not anticipate claims

The Examiner has rejected claims 1-15, 17-22, 24-27, 29, and 53-55 under 35 U.S.C. 102(b) as being anticipated by *Field*. (OA 3) Applicants respectfully traverse this rejection. *Field* discloses a flexible bag for use in medical procedures. The *Field* bag has two connected walls 1, 2 that define a sealed volume (See FIG. 1). Both walls comprise an inner 11, an outer 12, and an intermediate layer, all contiguous with the bag itself (See FIG. 2). *Field* does not disclose the incorporation of a patch 16, having a surface area less than the surface area of the back wall, as recited in all the present claims as amended (See Fig. 1). Thus, *Field* does not anticipate any of the claims.

II. Field, in light of In re Japikse, does not render the claim obvious

The Examiner has rejected claim 16 as being unpatentable over *Field*, in light of *In re Japikse*. (OA 5) Applicants respectfully traverse this rejection. Claim 16 requires a patch with a first layer, a second layer, and a third metallized layer attached to the first layer opposite the second layer. There is no disclosure or motivation within the reference to modify the integrity of the *Field* bag. *Field* discloses a bag comprising two connected walls 1, 2, both with three contiguous layers (See FIG. 1). *Field*, specifically, describes an intermediate metallized layer (See TABLE 1, SAMPLE D). *Field* does not suggest

altering the structure of the bag by interchanging the intermediate metallized layer with other layers, such that the metallized layer is attached to the first layer opposite the second layer (as in claim 16). Furthermore, there is no indication that a patch 16 (not contiguous with the walls of the bag itself) with an outer metallized layer would be successful (See FIG. 1). Thus, the Examiner has failed to make a prima facie case of obviousness, and the claim is not rendered obvious.

III. Field, in light of *In re Rose*, does not render the claims obvious

The Examiner has rejected claims 23 and 28 in view of the combination of *Field* and *In re Rose*. (OA 6) Applicants respectfully traverse this rejection. Both claim 23 and 28 require a second layer, approximately 0.0005 inches thick. There is no disclosure or motivation within the reference to modify the integrity of the bag. *Field* discloses a bag comprising two connected walls 1, 2, both with three contiguous layers (See FIG. 1). *Field* does not suggest altering the inner layer 11 (See FIG. 2) from the 50 or 40 microns therein described (See TABLE 1) to the 0.0005 inches required by claims 23 and 28. Furthermore, there is no indication that a patch 16 (not contiguous with the walls of the bag itself) with a thinner second layer (0.0005in) of polyethylene would be successful (See FIG. 1). Thus, the Examiner has failed to make a prima facie case of obviousness, and the claim is not rendered obvious.

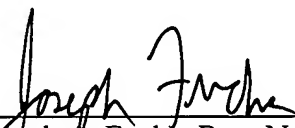
CONCLUSION

In view of the foregoing reasons, Applicants respectfully submit that the claims as amended are allowable and respectfully request an early notice of the same.

Respectfully submitted,

EVEREST INTELLECTUAL PROPERTY LAW GROUP

Date: July 28, 2004

BY 
Joseph A. Fuchs, Reg. No. 34,604
P.O. Box 708
Northbrook, IL 60065
Phone: (847) 272-3400